

HOUSE FINAL STATUS

HB 45 INTRODUCED BY SWIFT  
RAISE LEGAL DRINKING AGE FROM 19 TO 21

1/05 INTRODUCED

1/05 REFERRED TO JUDICIARY

1/07 HEARING

2/12 TABLED IN COMMITTEE

1                    HOUSE      BILL NO.   45  
2   INTRODUCED BY   SWIFT

3  
4   A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE LEGAL  
5   DRINKING AGE FROM 19 TO 21; AMENDING SECTIONS 16-3-301,  
6   16-6-305, 16-6-314, 45-5-623, AND 45-5-624, MCA; AND  
7   PROVIDING AN EFFECTIVE DATE."

8  
9   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10        Section 1. Section 16-3-301, MCA, is amended to read:  
11        "16-3-301. Unlawful purchases, sales, or deliveries.

12        (1) It shall be unlawful for a licensed retailer to purchase  
13        or acquire beer from anyone except a brewer or wholesaler  
14        licensed under the provisions of this code.

15        (2) It shall be unlawful for any licensee, his or her  
16        employee or employees, or any other person to sell, deliver,  
17        or give away or cause or permit to be sold, delivered, or  
18        given away any alcoholic beverage to:

- 19            (a) any person under 19 21 years of age;  
20            (b) any intoxicated person or any person actually,  
21            apparently, or obviously intoxicated.

22        (3) Any person under 19 21 years of age or other  
23        person who knowingly misrepresents his or her qualifications  
24        for the purpose of obtaining an alcoholic beverage from such  
25        licensee shall be equally guilty with said licensee and

1   shall, upon conviction thereof, be subject to the penalty  
2   provided in 45-5-624; provided, however, that nothing herein  
3   contained shall be construed as authorizing or permitting  
4   the sale of an alcoholic beverage to any person in violation  
5   of any federal law.

6            (4) It shall be further mandatory under the provisions  
7   of this code that all licensees display in a prominent place  
8   in their premises a placard as issued by the department  
9   stating fully the consequences for violations of the  
10   provisions of this code by persons under 19 21 years of  
11   age."

12        Section 2. Section 16-6-305, MCA, is amended to read:  
13        "16-6-305. Age limit for sale of alcoholic beverages.

14        (1) Except in the case of an alcoholic beverage given to a  
15        person under 19 21 years of age by his parent or guardian  
16        for beverage or medicinal purposes or administered to him by  
17        his physician or dentist for medicinal purposes or sold to  
18        him by a vendor or druggist upon the prescription of a  
19        physician, no person shall sell, give, or otherwise supply  
20        an alcoholic beverage to any person under 19 21 years of age  
21        or permit any person under that age to consume an alcoholic  
22        beverage.

23        (2) Any person shall be guilty of a misdemeanor who:

- 24            (a) invites a person under the age of 19 21 years into  
25        a public place where an alcoholic beverage is sold and



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1 treats, gives, or purchases an alcoholic beverage for such  
2 person;

3 (b) permits such person in a public place where an  
4 alcoholic beverage is sold to treat, give, or purchase  
5 liquor for him; or

6 (c) holds out such person to be 19 21 years of age or  
7 older to the owner of the establishment or his or her  
8 employee or employees.

9 (3) It is unlawful for any person to fraudulently  
10 misrepresent his or her age to any dispenser of alcoholic  
11 beverages or to falsely procure any identification card or  
12 to alter any of the statements contained in any  
13 identification card."

14 Section 3. Section 16-6-314, MCA, is amended to read:

15 "16-6-314. Penalty for violating code -- revocation of  
16 license -- penalty for violation by underage person. (1) A  
17 person who violates a provision of this code is guilty of a  
18 misdemeanor punishable as provided in 46-18-212, except as  
19 is herein otherwise provided.

20 (2) If a retail licensee is convicted of an offense  
21 under this code, his license shall be immediately revoked  
22 or, in the discretion of the department, such other sanction  
23 imposed as may be authorized under 16-4-406.

24 (3) A person under 19 21 years of age who violates  
25 16-3-301(3) or 16-6-305(3) is subject to the penalty

1 provided in 45-5-624(2)."

2 Section 4. Section 45-5-623, MCA, is amended to read:

3 "45-5-623. Unlawful transactions with children. (1) A  
4 person commits the offense of unlawful transactions with  
5 children if he knowingly:

6 (a) sells or gives explosives to a child under the age  
7 of majority except as authorized under appropriate city  
8 ordinances;

9 (b) sells or gives intoxicating substances other than  
10 alcoholic beverages to a child under the age of majority;

11 (c) sells or gives alcoholic beverages to a person  
12 under 19 21 years of age; or

13 (d) being a junk dealer, pawnbroker, or secondhand  
14 dealer, receives or purchases goods from a child under the  
15 age of majority without authorization of the parent or  
16 guardian.

17 (2) A person convicted of the offense of unlawful  
18 transactions with children shall be fined not to exceed \$500  
19 or be imprisoned in the county jail for any term not to  
20 exceed 6 months, or both. A person convicted of a second  
21 offense of unlawful transactions with children shall be  
22 fined not to exceed \$1,000 or be imprisoned in the county  
23 jail for any term not to exceed 6 months, or both."

24 Section 5. Section 45-5-624, MCA, is amended to read:

25 "45-5-624. Unlawful possession of an intoxicating

1 substance -- interference with sentence or court order. (1)  
 2 A person under the age of 18 years commits the offense of  
 3 possession of an intoxicating substance if he knowingly has  
 4 in his possession an intoxicating substance other than an  
 5 alcoholic beverage. A person under the age of ~~19~~ 21 commits  
 6 the offense of possession of an intoxicating substance if he  
 7 knowingly has in his possession an alcoholic beverage,  
 8 except that he does not commit the offense when in the  
 9 course of his employment it is necessary to possess  
 10 alcoholic beverages.

11 (2) A person convicted of the offense of possession of  
 12 an intoxicating substance shall:

13 (a) be fined not to exceed \$50;

14 (b) be ordered to complete and, if financially able,  
 15 pay all costs of his participation in a community-based  
 16 substance abuse information course;

17 (c) have his driver's license confiscated by the court  
 18 for not more than 90 days and be ordered not to drive during  
 19 that period if he was driving or otherwise in actual  
 20 physical control of a motor vehicle when the offense  
 21 occurred; or

22 (d) be sentenced to any combination of these  
 23 penalties.

24 (3) A defendant who fails to comply with a sentence  
 25 and is under 21 years of age and was under 18 years of age

1 when he failed to comply must be transferred to the youth  
 2 court. If proceedings for violation of subsection (1) are  
 3 held in the youth court, the penalties in subsection (2) do  
 4 not apply. If proceedings for violation of subsection (1) or  
 5 for failure to comply with a sentence are held in the youth  
 6 court, the offender shall be treated as an alleged youth in  
 7 need of supervision as defined in 41-5-103(13). In such  
 8 case, the youth court may enter its judgment under 41-5-523.

9 (4) A person commits the offense of interference with  
 10 a sentence or court order if he purposely or knowingly  
 11 causes his child or ward to fail to comply with a sentence  
 12 imposed under this section or a youth court disposition  
 13 order for a youth found to have violated this section and  
 14 upon conviction shall be fined \$100 or imprisoned in the  
 15 county jail for 10 days, or both."

16 NEW SECTION. Section 6. Effective date. This act is  
 17 effective at 2 a.m., May 1, 1987.

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